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**Commission on Ethics &  
Public Trust  
Miami-Dade County**

# Memorandum

To: Jorge Roque, District 13 County Commission Candidate 2004

The Honorable Carlos Alvarez, Mayor  
The Honorable Chairperson, Joe Martinez  
Members, Board of County Commissioners

From: Robert Meyers, Executive Director, Commission on Ethics

Date: April 13, 2006

Re: Final Audit Report – Campaign Account of Jorge Roque 2004

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Attached is your copy of the above referenced final audit report. The COE notes that this campaign account was frozen by a judge's order as a result of an ongoing State Attorney's investigation involving the Jorge Roque campaign. It should be noted that this fact did not in anyway limit the scope of the COE's audit procedures and conclusions drawn herein.

Overall, the Commission on Ethics (COE) concluded that the campaign expenditures were in compliance with the requirements of the Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds. However, the COE noted several of instances where there was a lack of compliance with Florida Statutes Title IX, Chapter 106, "Campaign Financing," with some violations more significant than others. The more significant areas of concern include campaign expenditures paid through intermediaries-including the purchase of media through third parties, operating two campaign bank accounts at the same time, failure to report in-kind contributions, and failure to timely report \$75,000 in public funds received from the Elections Campaign Trust Fund.

cc: Mr. Jose R. Gomez, Campaign Treasurer  
Kerry Rosenthal, Chairman, Commission on Ethics

**Commission on Ethics & Public Trust**

**Miami-Dade County**

**FINAL**  
**Audit Report**

**Post-Election Audit of the  
Jorge Roque  
Campaign Account**

**April 13, 2006**

**Commission on Ethics & Public Trust**  
**Post-Election Audit of the Jorge Roque Campaign Account**  
**FINAL AUDIT REPORT**  
**April 13, 2006**

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## **INTRODUCTION**

In March of 2001, the Miami-Dade County Board of County Commissioners adopted Ordinance No. 01-39 (the Ordinance) for campaign financing reform which is codified in Miami-Dade County Code §12-22. The Ordinance is intended to make the political process more accessible to candidates who run for the office of County Mayor or Commissioner by providing eligible candidates with public funding from the Election Campaign Financing Trust Fund (the Fund).

The Ordinance establishes the eligibility requirements that a candidate must meet in order to receive public funding. For the office of County Commissioner, each candidate who satisfies these requirements may be eligible for a maximum contribution of \$75,000 in the primary election, and an additional \$50,000 if a run-off election occurs. For the office of Mayor, each candidate who satisfies the eligibility requirements may receive \$300,000 for the primary election and an additional \$200,000 if the candidate is in a run-off election.

Additionally, the Ordinance requires the Commission on Ethics & Public Trust (COE) to conduct post-election audits ninety (90) days following the date of the election for those candidates who received public funding from the county. This is in keeping with both the requirements of §12-22 (f)(6) of the Code of Miami-Dade County and Florida Statute §106.141 (4), which require that the candidate dispose of any surplus funds remaining in the campaign account within 90-days of the election date by: (1) returning all surplus funds to the Election Campaign Financing Trust Fund; and (2) any funds remaining in the campaign account that are in excess of the public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds.

Accordingly, the COE conducted a post-election audit of the campaign account of Mr. Jorge Roque, a candidate for County Commissioner, who received \$75,000 in public funding as a candidate for the Miami-Dade County Commission primary election held on August 31, 2004.

## **PURPOSE & SCOPE OF THE AUDIT**

This COE audit focuses primarily on campaign expenditures as other Miami-Dade county agencies have been involved in current, on-going examinations of all campaign contributions for those candidates who received public funds. Thus, the COE focused on the following audit objectives:

1. Verify that the candidate complied with County Code §12-22 (e)(1), which sets forth the expenditure limits for those candidates who receive public financing.
2. Verify that the candidate complied with County Code §12-22 (g), "Use of Funds," which states the following six (6) types of expenditures that public funds **cannot** be used for:
  - a. Clothing for a candidate or an immediate family member of the candidate, except for a political advertisement as defined in Florida Statute §106.001 (17). An immediate family member is defined as the spouse, parents, children, and siblings of the candidate.
  - b. The purchase or rental of any vehicle for a candidate.
  - c. Enhancement of any vehicle owned by candidate or candidate's immediate family member.
  - d. Personal grooming or cosmetic enhancements for a candidate.
  - e. Payment to a candidate or an immediate family member for the purchase of goods / services.
  - f. Payment to any corporation, firm, partnership, or business entity owned or controlled by a candidate or an immediate family member for the purchase of any goods or services. "Controlled by" shall mean ownership, directly or indirectly, of 5% or more of the outstanding capital stock in any corporation, or direct or indirect interest of 5% or more in a firm, partnership, or other business entity.
3. Verify that the candidate disposed of any surplus funds remaining in the campaign account within 90-days following the election as required by County Code §12-22 (F) (6) and Florida Statute §106.141 (4).
4. Review for compliance with applicable sections of Florida Statute Title IX, Chapter 106, "Campaign Financing."

The COE obtained copies of all bank statements and cancelled checks drawn against the campaign account, original and/or copies of vendor invoices and receipts, as well as any other accounting records, contracts and/or documentation which would substantiate the amount and purpose of the candidate's campaign expenditures.

The scope of the audit encompassed the period of July 2, 2003 through October 8, 2004, which coincides with the timeframe the campaign bank account was opened and accessible <sup>1</sup> to the campaign. Additionally, the COE audit strategy was to subject to audit 100% of the campaign expenditures exhibited on the Campaign Treasurer's Report.

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<sup>1</sup> This campaign account was frozen by a judge's order as a result of an ongoing State Attorney's investigation involving the Jorge Roque campaign. As of the release date of this audit report, the campaign bank account remains frozen pending the completion of the investigation.

## **SUMMARY OF CAMPAIGN ACCOUNT ACTIVITY**

Based on a review of the Campaign Treasurer's Reports and campaign account bank statements, the Jorge Roque campaign had a total of \$114,545.00 available to run the candidate's election campaign. Of the total \$114,545.00 in campaign funds, \$75,000.00 was received from the County's public trust fund and the remaining \$39,545 was acquired through private contributions, loans and in-kind services. Based on a review of the Campaign Treasurer's Reports, a breakdown of how the total campaign funds were spent is exhibited in Table I. below and categorized by expense type:

**TABLE I.**

<b>BREAKDOWN OF EXPENSES</b>			
<b>Expense Type</b>	<b>Dollar Amount Of Expenses</b>	<b>% of Total Expenses</b>	<b>Allowable per §12-22 (g)?</b>
Advertising	79,633.25	84.84	Yes
Promotion	5,309.28	5.66	Yes
Postage	4,088.00	4.36	Yes
Rent	2,100.00	2.24	Yes
Telephone Service	593.68	0.63	Yes
Printing	545.70	0.58	Yes
Qualifying Fee	360.00	0.38	Yes
Expense Reimbursement	350.00	0.37	Yes
Campaign Staff	300.00	0.32	Yes
Food	277.29	0.30	Yes
Office Supplies	119.03	0.13	Yes
Campaign Data	114.76	0.12	Yes
Bank Fees	73.46	0.08	Yes
<b>TOTAL:</b>	<b>\$93,864.45 <sup>2</sup></b>	<b>100%</b>	

The COE notes that the expense classifications used in Table I. above were taken from the description on the candidate's Campaign Treasurer's Reports filed with the Miami-Dade County Department of Elections. In other words, the COE *did not* create these expense classifications; rather, the COE used the expense descriptions found in the candidate's campaign records.

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<sup>2</sup> A difference of \$20,680.55 between total funds available of \$114,545 and total expenditures of \$93,864.45 is comprised primarily of (a) an unused cash balance in the campaign bank account of \$18,859.92 from when the account was frozen and (b) a balance of \$1,820.63 is addressed on p. 10 herein in the Section, "OTHER AUDIT FINDINGS - Item b."

## **CANDIDATE'S COMPLIANCE WITH COUNTY CODE § 12-22**

### **a. Compliance with Campaign Expenditures Limit**

Miami-Dade County Code §12-22 (e) requires that candidates for county Commissioners who request public funding from the Elections Campaign Financing Trust Fund limit their campaign contributions/expenditures to \$75,000 for the primary election unless one candidate exceeds the established contribution limit.

Based on a review of the Campaign Treasurer's Reports, bank statements and supporting documentation, it appears that the Roque campaign did not exceed the expenditure limit.

**NO EXCEPTIONS WERE NOTED**

### **b. Compliance with County Code §12-22, Subsection (g) "Use of Funds"**

To verify the candidate's compliance with Code §12-22 (g), "Use of Funds," the COE reviewed all campaign expenses and verified that the public funding portion of the campaign account was not used to pay for: clothing for the candidate or their immediate family member, except for a political advertisement as defined Florida Statute §106.001 (17); the purchase or rental of any vehicle for a candidate; the enhancement of any vehicle owned by a candidate or an immediate family member of the candidate; or person grooming or cosmetic enhancements for a candidate.

Additionally, for payments made to individuals from the campaign account, the COE researched whether the payee was an immediate family member of the candidate. "Immediate family member" refers to the candidate's spouse, parents, children, and siblings. For payments made to business entities from the campaign account for the purchase of goods or services, the COE researched whether the business entity is owned or controlled by the candidate or an immediate family member of the candidate. Based on our review, the COE concludes that the candidate complied with the requirements of §12-22 (g), "Use of Funds," as no payments were made from the campaign account for disallowed expenditures.

Overall, the COE found that the candidate complied with the requirements of Code §12-22 (g), "Use of Funds," for the public funding portion of the campaign account. However, a review of the supporting documentation found that the campaign paid reimbursed Jorge Roque \$320.97 for expenses related to the campaign. *{See Exhibit A for support.}*

The COE cannot identify with certainty which source of funds was used to pay for these expenditures as Florida Statute §106.021(1) requires that all contributions and expenditures are made from one campaign account. Therefore, since both privately raised contributions and the county's public funds were required to be deposited in the same account, the COE assumes that the payments to related parties were paid from the \$39,545.00 the candidate received in private contributions.

**NO EXCEPTIONS NOTED.**

**c. Compliance with County Code §12-22, Subsection (f)(6) “Disposal of Surplus Funds”**

County Code §12-22 (f)(6) and Florida Statute §106.141(4) require that the candidate dispose of any surplus funds remaining in the campaign account within 90 days after the election date in the following manner: (1) return all surplus funds to the county’s Election Campaign Financing Trust Fund; and, (2) any funds remaining in the campaign account that are in excess of the county’s public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds. Given that the election was on August 31, 2004, the 90-day period for returning any surplus funds ended on November 30, 2004.

In late 2004, the COE notes that the campaign bank account of Jorge Roque was frozen as a result of a State Attorney Office’s investigation. Based on audit inquiry, the COE confirmed that the Roque campaign bank account was frozen as of December 2005.

Additionally, the COE auditor requested from the campaign a letter from the bank indicating the date the account was closed. The bank provided a copy of the August 2004 bank statement, the timeframe when the account was frozen, which reflected a balance of \$18,859.92. The COE notes that as of the date of this audit report the “Campaign Account of Jorge Roque” remains frozen and can not be closed as a result of the investigation into alleged campaign financing discrepancies. *{See Exhibit B for a copy of the bank statement after the account was frozen.}*

It is also noted that on December 30, 2004, the Jorge Roque campaign remitted to the Board of County Commissioners the remaining balance in the campaign bank account of \$18,859.92. However, because this campaign account is frozen pending the outcome of a separate agency’s investigation, Miami-Dade county cannot cash this check at this point in time. *{See Exhibit O for a copy check remitted to BCC.}*

**d. Candidate Simultaneously Operated Two Campaign Bank Accounts**

The Roque campaign operated two (2) separate campaign bank accounts at Bank Atlantic from February 10, 2004 through March 9, 2004, depositing campaign contributions and disbursing campaign expenditures from **BOTH** bank accounts during this same period in violation of Florida Statute 106.021. *{See Exhibit C for Closed Bank Account Statement and D for Primary Campaign Bank Account Statements covering the period both accounts were open.}*

The campaign’s first Bank Atlantic account, Account No. 0055865123, was opened on July 2, 2003 as the primary campaign account and called the “Campaign Account of Jorge Roque.” The second campaign account, Bank Atlantic Account No. 0058827039, was opened on February 10, 2004 and designated as the “Jorge Roque / Jose R. Gomez Campaign Funds.” The COE notes that this secondary campaign account was closed as of March 9,



2004 while the primary “Campaign Account of Jorge Roque” remains open through the date of this audit report.

Maintaining two campaign accounts simultaneously is a direct violation of Florida Statute 106.021 (1)(b), as this statute states, in part:

“...each candidate ...shall ... designate **one primary campaign depository** for the purpose of depositing all contributions received, and disbursing all expenditures made, by the candidate...”

Moreover, 106.021 (1)(b) states that if a secondary depository is operated then it shall be for the sole purpose of depositing contributions and transferring these funds to the primary campaign account. Thus, campaign expenses are prohibited from being paid out of a secondary campaign account. Therefore, the Roque campaign violated the Florida law governing campaign bank accounts by making campaign expenses from the secondary campaign account.

## **COMPLIANCE WITH FL STATUTE TITLE IX, CHAPTER 106, “CAMPAIGN FINANCING”**

Election campaign finance laws are found in Florida Statute Chapter 106, Campaign Financing, and interpretations of these statutes are provided by the Florida Elections Commission as Elections Opinions. As part of this audit, the COE reviewed the relevant Florida statutes and the Elections Opinions to ensure the candidate’s campaign was in substantial compliance with the applicable statutory requirements.

Through inquiry of individuals associated with the Roque campaign and review of the candidate’s campaign bank account records, cancelled checks, related vendor invoices, and other supporting documentation for campaign expenditures, the following are the COE’s audit findings with regards to compliance with Florida Statute Chapter 106:

### **a. Expenditures in Furtherance of the Campaign Through Third Parties**

Florida Statutes §106.021(3) and §106.11(1) prohibit direct or indirect campaign expenditures in furtherance of a candidate’s election campaign except through the duly appointed campaign treasurer. Additionally, Florida Statute §106.11(1) prohibits the expenditure of funds on behalf of a candidate from any other bank account other than the candidate’s primary campaign account, using a check drawn against that specific campaign bank account.

### **AUDIT FINDING**

Based on a review of cancelled checks and supporting documentation provided by the campaign, the COE found that the Roque campaign made payments totaling \$70,000, or approximately 75% of the campaign expenditures, to “Maranon and Associates – Advertising” (Maranon) who acted as a third-party intermediary, purchasing both media as well as issuing payments to campaign vendors on behalf of the campaign.<sup>3</sup>

Of the \$70,000 paid to Maranon, \$47,730.01 was for purchase of media, \$9,452.76 was for non-media related purchases and the balance of \$12,817.19 is Maranon’s commission. The COE notes that the media consultant’s fees were not invoiced separately to the Roque campaign, but instead was calculated as the difference between the Roque campaign’s check payments to Maranon and Maranon’s third party payments to its vendors. *{See Exhibit E for Summary Schedule of Payments by: (a) the Campaign to Maranon; and, (b) Maranon & Associates to Third Parties. See Exhibit F for Maranon Invoices to the Campaign and Exhibit G for Campaign Checks to Maranon. See Exhibit H for Supporting Documentation for Non-Media Related Expenses and Exhibit I for Supporting Documentation for Media Purchases and Payments made by Maranon on behalf of the Roque Campaign.}*

#### **b. Campaign Payments to Media Consultants for the Purchase of Media**

The Florida Elections Commission decision DE 86-14, which interprets Florida Statute §106.11(1), states the following:

“A candidate who is procuring both media related consultant services and mass media political advertisements *must issue separate checks drawn on the campaign account to media consultant for their services and to each media outlet that is providing advertising services.*”

Additionally, the Florida Elections Commission held in DE 03-08 that if a media consulting firm was to pay for a candidate’s actual advertisements it would be considered a direct expenditure in furtherance of the candidate and as such it is prohibited because the expense incurred was not paid directly from the candidate’s campaign account.

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<sup>3</sup> Some of these same campaign payments are also a violation of Florida Statute §106.021(3) and the Florida Election Commission decisions DE 03-08 and DE 86-14 as discussed in Sections (b) below.

### **AUDIT FINDING**

Based on a review of cancelled check payments and supporting documentation for media consultants, the COE found that the Jorge Roque campaign paid “Maranon and Associates – Advertising” (Maranon) a total of \$70,000.00 of which \$47,730.05, or approximately 68%, was spent by Maranon directly for the purchase of media, as opposed to the Roque campaign issuing payments directly to the media outlet from the campaign bank account. This is in direct violation of Florida Statute §106.021(3) as well as the Florida Election Commission decisions DE 03-08 and DE 86-14. *{See Exhibit E for schedule of Maranon payments on behalf of the Campaign and Exhibit I for copies of supporting documentation for purchase of media.}*

#### **C. Purpose of Campaign Check Not Documented on Cancelled Check**

Of the 31 checks issued from the campaign account, the COE auditor found that were two (2) check payments, totaling \$18,913.72, which did not have any comments written in the check memo that would indicate the exact purpose of the campaign expense. The auditor noted that one of the checks was issued to the Miami-Dade County Board of Commissioners for \$18,859.92 to return the excess public funds not used by the Jorge Roque campaign. This was noted on a receipt issued to the campaign by the county’s Elections Department.

Although county code requires invoices and/or receipts to be maintained by the candidate to support all campaign expense, the Florida statutes do not specifically require such supporting documentation. Instead, Florida Statute 106.11(1)(b)(5) states that campaign check payments need only contain “the exact purpose for which the expenditure is authorized” on the face of the check. *(See Exhibit O for supporting documentation.)*

## **OTHER AUDIT FINDINGS**

### **a. Failure to Report Contribution-in-Kind**

The campaign contracted with “Nima Plaza, LLC” to rent office space for the month of August 2004 for a fee of \$2,100.00. The rental agreement also allowed the campaign to occupy the office space as of July 19 2004 without any rent being charged until August 1, 2004. As a result, the Roque campaign received thirteen (13) days of office space rent-free from July 19, 2004 through July 31, 2004.

Thus, the provision of office space free of charge should have been reported as a contribution-in-kind valued at approximately \$880 (\$67.74 x 13 days). The COE notes that neither the Campaign Treasurer’s Report (CTR) for the period July 1, 2004 through July 23, 2004 nor any other CTR’s filed with the Miami-Dade Elections Department reported a contribution-in-kind for the free rent received. *{See Exhibit J for supporting documentation consisting of rental contract, rent payment and CTR reflecting no in-kind contributions reported for this period.}*

### **b. Failure to Timely Report Public Funds Received from the Elections Trust Fund as “Contributions” in the Campaign Treasurers Reports**

Florida Statute §106.06 (1), “Treasurer to Keep Records,” requires that the campaign treasurer maintain detailed accounts, “current within not more than 2 days after the date of receiving a contribution or making an expenditure...”

Based on review of the campaign bank statements and the CTRs, the COE auditor noted that the \$75,000 in public funds received from Miami-Dade County were deposited in the campaign bank account on July 2, 2004 (i.e., \$50,000) and August 10, 2004 (i.e., \$25,000), but were not reported on a timely basis as contributions on the CTR applicable to the deposit date (i.e., F1-04 for the July deposit and F3-04 for August deposit). However, the campaign did eventually file two amended CTRs (i.e., the F1-04 and F3-04) with the Miami-Dade Elections Department on January 20, 2005. Thus, the campaign filed the contributions of the public funding more than six (6) months after receipt of the public monies. *{See Exhibit L for original CTRs filed and Exhibit K for the amended CTRs reflecting the public funds received but filed on January 20, 2005.}*

**c. Campaign Treasurer's Report vs. Bank Statements**

The COE compared total disbursements per the monthly campaign bank account statements to the total cumulative expenditures reported on the Campaign Treasurer's Reports filed with the Miami-Dade County Department of Elections. The COE determined that total contributions per the bank statements were \$114,545.00, including a balance of \$18,859.92 frozen in the bank account, and total expenditures per the bank statements to be \$95,685.08 as compared to the total campaign expenditures reported on the Campaign Treasurer's Report of \$93,864.45. Therefore, there is an unexplained under-reporting of campaign expenditures of \$1,820.63 in the Campaign Treasurer's Reports. *{See Exhibits M for Schedule of Contributions and Expenditures per Bank and "N" for copy of Final CTR.}*

**AUDIT CONCLUSION**

Overall, the COE found that the campaign expenditures made from the Jorge Roque campaign account were in compliance with the requirements of Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds. However, the COE noted several of instances where there was a lack of compliance with Florida Statutes Title IX, Chapter 106, "Campaign Financing," with some violations more significant than others. The more significant areas of concern include campaign expenditures paid through intermediaries- including the purchase of media through third parties, operating two campaign bank accounts at the same time, failure to report in-kind contributions, and failure to timely report \$75,000 in public funds received from the Elections Campaign Trust Fund.

The COE appreciates the cooperation extended by the parties involved with Jorge Roque campaign throughout the course of this audit.

## **EXHIBITS**

- A.** Expense Reimbursement to Jorge Roque
- B.** Bank Statement: Balance in Frozen Account
- C.** Bank Statement: Closed Bank Account
- D.** Bank Statement: Primary Campaign Bank Account
- E.** Summary Schedule of Payments to Maranon & Associates and Maranon's Payments to Vendors
- F.** Maranon Invoices to the Campaign
- G.** Campaign Checks to Maranon & Associates
- H.** Support for Maranon Payments to Vendors on Behalf of the Campaign
- I.** Support for Maranon Payments for Media Purchases
- J.** Contract and Rent Payment to Nima Plaza LLC
- K.** Amended CTRs for \$75,000 in Public Funds Received
- L.** Campaign Treasurer's Report not Reporting Contribution Arising from County Public Financing
- M.** Summary Schedule of Contributions According the Bank Statement
- N.** Final Campaign Treasurer's Report Filed
- O.** Copies of Campaign Checks without Memorandum Section Incomplete

## **APPENDIX**

- 1.** Campaign's Response to the Draft Audit Report